

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LENNY MOLINA,

Civil No.: 20-cv-10821

Plaintiff,

-against-

**ANSWER**

HORNBLOWER GROUP, INC., HORNBLOWER  
NEW YORK, LLC and HORNBLOWER CRUISES  
AND EVENTS, LLC,

Defendants.

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**PLEASE TAKE NOTICE**, that defendants, HORNBLOWER GROUP, INC., HORNBLOWER NEW YORK, LLC and HORNBLOWER CRUISES AND EVENTS, LLC, by their attorneys, GORDON REES SCULLY MANSUKHANI, LLP, as and for an Answer to the plaintiff's Complaint, respectfully allege the following upon information and belief:

1. Deny the allegations contained in the paragraph marked and designated "1" of plaintiff's Complaint and refer all questions of law to the Court.
2. Deny the allegations contained in the paragraph marked and designated "2" of plaintiff's Complaint.
3. Deny the allegations contained in the paragraph marked and designated "3" of plaintiff's Complaint.
4. Deny the allegations contained in the paragraph marked and designated "4" of plaintiff's Complaint.
5. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the paragraph marked and designated "5" of plaintiff's Complaint.
6. Deny in the form alleged the allegations contained in the paragraph marked and

designated “6” of plaintiff’s Complaint and refer all questions of law to the Court.

7. Deny in the form alleged the allegations contained in the paragraph marked and designated “7” of plaintiff’s Complaint and refer all questions of law to the Court.

8. Deny in the form alleged the allegations contained in the paragraph marked and designated “8” of plaintiff’s Complaint and refer all questions of law to the Court.

9. Deny in the form alleged the allegations contained in the paragraph marked and designated “9” of plaintiff’s Complaint and refer all questions of law to the Court.

10. Deny in the form alleged the allegations contained in the paragraph marked and designated “10” of plaintiff’s Complaint and refer all questions of law to the Court.

11. Deny the allegations contained in the paragraph marked and designated “11” of plaintiff’s Complaint.

12. Deny the allegations contained in the paragraph marked and designated “12” of plaintiff’s Complaint and refer all questions of law to the Court.

13. Deny the allegations contained in the paragraph marked and designated “13” of plaintiff’s Complaint and refer all questions of law to the Court.

14. Deny the allegations contained in the paragraph marked and designated “14” of plaintiff’s Complaint refer all questions of law to the Court.

15. Deny the allegations contained in the paragraph marked and designated “15” of plaintiff’s Complaint.

16. Deny the allegations contained in the paragraph marked and designated “16” of plaintiff’s Complaint.

17. Deny the allegations contained in the paragraph marked and designated “17” of plaintiff’s Complaint.

18. Deny the allegations contained in the paragraph marked and designated “18” of

plaintiff's Complaint.

19. Deny the allegations contained in the paragraph marked and designated "19" of plaintiff's Complaint.

20. Deny in the form alleged the allegations contained in the paragraph marked and designated "20" of plaintiff's Complaint and refer all questions of law to the Court.

21. Deny in the form alleged the allegations contained in the paragraph marked and designated "21" of plaintiff's Complaint and refer all questions of law to the Court.

22. Deny the allegations contained in the paragraph marked and designated "22" of plaintiff's Complaint.

23. Deny the allegations contained in the paragraph marked and designated "23" of plaintiff's Complaint.

24. Deny the allegations contained in the paragraph marked and designated "24" of plaintiff's Complaint.

25. Deny the allegations contained in the paragraph marked and designated "25" of plaintiff's Complaint.

26. Deny the allegations contained in the paragraph marked and designated "26" of plaintiff's Complaint.

27. Deny in the form alleged the allegations contained in the paragraph marked and designated "27" of plaintiff's Complaint and refer all questions of law to the Court.

28. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the paragraph marked and designated "28" of plaintiff's Complaint.

29. Deny in the form alleged the allegations contained in the paragraph marked and designated "29" of plaintiff's Complaint and refer all questions of law to the Court.

30. Deny in the form alleged the allegations contained in the paragraph marked and designated “30” of plaintiff’s Complaint and refer all questions of law to the Court.

31. Deny the allegations contained in the paragraph marked and designated “31” of plaintiff’s Complaint.

32. Deny the allegations contained in the paragraph marked and designated “32” of plaintiff’s Complaint.

33. Deny the allegations contained in the paragraph marked and designated “33” of plaintiff’s Complaint.

34. Deny the allegations contained in the paragraph marked and designated “34” of plaintiff’s Complaint.

35. Deny the allegations contained in the paragraph marked and designated “35” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT ONE**

**Failure to provide a Reasonable Accommodation in Violation of the ADA 42 U.S.C. §§12181, et seq.**

36. As to paragraph number “36” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “35” as if said denials were more fully and specifically set forth at length herein.

37. Deny in the form alleged the allegations contained in the paragraph marked and designated “37” of plaintiff’s Complaint.

38. Deny in the form alleged the allegations contained in the paragraph marked and designated “37” of plaintiff’s Complaint and refer all questions of law to the Court.

39. Deny the allegations contained in the paragraph marked and designated “20” of plaintiff’s Complaint.

40. Deny the allegations contained in the paragraph marked and designated “40” of plaintiff’s Complaint.

41. Deny the allegations contained in the paragraph marked and designated “41” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT TWO**  
**Retaliation in Violation of the ADA, 42 U.S.C. §§12181, et seq.**

42. As to paragraph number “42” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “41” as if said denials were more fully and specifically set forth at length herein.

43. Deny in the form alleged the allegations contained in the paragraph marked and designated “43” of plaintiff’s Complaint and refer all questions of law to the Court.

44. Deny in the form alleged the allegations contained in the paragraph marked and designated “44” of plaintiff’s Complaint and refer all questions of law to the Court.

45. Deny in the form alleged the allegations contained in the paragraph marked and designated “45” of plaintiff’s Complaint and refer all questions of law to the Court.

46. Deny in the form alleged the allegations contained in the paragraph marked and designated “46” of plaintiff’s Complaint and refer all questions of law to the Court.

47. Deny the allegations contained in the paragraph marked and designated “47” of plaintiff’s Complaint.

48. Deny the allegations contained in the paragraph marked and designated “48” of plaintiff’s Complaint.

49. Deny the allegations contained in the paragraph marked and designated “49” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT THREE**  
**Discrimination in Violation of the NYSHRL, N.Y. Exec. Law § 296**

50. As to paragraph number “50” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “49” as if said denials were more fully and specifically set forth at length herein,

51. Deny in the form alleged the allegations contained in the paragraph marked and designated “51” of plaintiff’s Complaint and refer all questions of law to the Court.

52. Deny in the form alleged the allegations contained in the paragraph marked and designated “52” of plaintiff’s Complaint and refer all questions of law to the Court.

53. Deny in the form alleged the allegations contained in the paragraph marked and designated “53” of plaintiff’s Complaint and refer all questions of law to the Court.

54. Deny the allegations contained in the paragraph marked and designated “54” of plaintiff’s Complaint.

55. Deny the allegations contained in the paragraph marked and designated “55” of plaintiff’s Complaint.

56. Deny the allegations contained in the paragraph marked and designated “56” of plaintiff’s Complaint.

57. Deny the allegations contained in the paragraph marked and designated “57” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT FOUR**  
**Discrimination in Violation of the NYSHRL, N.Y. Exec. Law § 296**

58. As to paragraph number “58” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “57” as if said denials were more fully and specifically set

forth at length herein,

59. Deny in the form alleged the allegations contained in the paragraph marked and designated “59” of plaintiff’s Complaint and refer all questions of law to the Court.

60. Deny in the form alleged the allegations contained in the paragraph marked and designated “60” of plaintiff’s Complaint and refer all questions of law to the Court.

61. Deny the allegations contained in the paragraph marked and designated “61” of plaintiff’s Complaint.

62. Deny the allegations contained in the paragraph marked and designated “62” of plaintiff’s Complaint.

63. Deny the allegations contained in the paragraph marked and designated “63” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT FIVE**  
**Discrimination in Violation of the NYCHRL, N.Y.C. Admin. Code § 8-107(1)(a)**

64. As to paragraph number “64” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “63” as if said denials were more fully and specifically set forth at length herein,

65. Deny in the form alleged the allegations contained in the paragraph marked and designated “65” of plaintiff’s Complaint and refer all questions of law to the Court.

66. Deny in the form alleged the allegations contained in the paragraph marked and designated “66” of plaintiff’s Complaint and refer all questions of law to the Court.

67. Deny in the form alleged the allegations contained in the paragraph marked and designated “67” of plaintiff’s Complaint and refer all questions of law to the Court.

68. Deny in the form alleged the allegations contained in the paragraph marked and designated “68” of plaintiff’s Complaint and refer all questions of law to the Court.

69. Deny in the form alleged the allegations contained in the paragraph marked and designated “69” of plaintiff’s Complaint and refer all questions of law to the Court.

70. Deny the allegations contained in the paragraph marked and designated “70” of plaintiff’s Complaint.

71. Deny the allegations contained in the paragraph marked and designated “71” of plaintiff’s Complaint.

72. Deny the allegations contained in the paragraph marked and designated “72” of plaintiff’s Complaint.

73. Deny the allegations contained in the paragraph marked and designated “73” of plaintiff’s Complaint.

**AS AND FOR A RESPONSE TO COUNT SIX**  
**Retaliation in Violation of the NYCHRL, N.Y.C. Admin. Code § 8-107(7)**

74. As to paragraph number “74” the answering Defendants repeat, reiterate, and reallege each and every denial of the allegations contained in the paragraphs of the Complaint marked and designated “1” through “73” as if said denials were more fully and specifically set forth at length herein,

75. Deny in the form alleged the allegations contained in the paragraph marked and designated “75” of plaintiff’s Complaint and refer all questions of law to the Court.

76. Deny in the form alleged the allegations contained in the paragraph marked and designated “76” of plaintiff’s Complaint and refer all questions of law to the Court.

77. Deny in the form alleged the allegations contained in the paragraph marked and designated “77” of plaintiff’s Complaint and refer all questions of law to the Court.

78. Deny the allegations contained in the paragraph marked and designated “78” of plaintiff’s Complaint.

79. Deny the allegations contained in the paragraph marked and designated “79” of



plaintiff's Complaint.

80. Deny the allegations contained in the paragraph marked and designated "80" of plaintiff's Complaint.

81. Deny the allegations contained in the paragraph marked and designated "81" of plaintiff's Complaint.

82. Deny the allegations contained in the paragraph marked and designated "82" of plaintiff's Complaint.

83. Deny the allegations contained in the paragraph marked and designated "A" of plaintiff's Complaint.

84. Deny the allegations contained in the paragraph marked and designated "B" of plaintiff's Complaint.

85. Deny the allegations contained in the paragraph marked and designated "C" of plaintiff's Complaint.

86. Deny the allegations contained in the paragraph marked and designated "D" of plaintiff's Complaint.

87. Deny the allegations contained in the paragraph marked and designated "E" of plaintiff's Complaint.

88. Deny the allegations contained in the paragraph marked and designated "F" of plaintiff's Complaint.

89. Deny the allegations contained in the paragraph marked and designated "G" of plaintiff's Complaint.

90. Deny the allegations contained in the paragraph marked and designated "H" of plaintiff's Complaint.

91. Deny the allegations contained in the paragraph marked and designated "I" of

plaintiff's Complaint.

92. Deny the allegations contained in the paragraph marked and designated "J" of plaintiff's Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

93. The Complaint fails to state facts sufficient to constitute a legal cause of action against the answering defendants.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

94. Some or all of the claims asserted in the plaintiff's Complaint fail to state a claim upon which relief may be granted against the answering defendants by this Court.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

95. The employment actions taken with respect to plaintiff do not constitute violations of the Americans with Disabilities Act and New York Executive Law because said actions were based on reasonable, legitimate and non-discriminatory factors. Alternatively, even if the plaintiff's alleged disability was a factor in the employment actions taken with respect to him, which is expressly denied, such issue was not a motivating or determining factor in any action(s) or inaction(s) taken by the answering defendants.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

96. Plaintiff is not entitled to some or all of the relief requested in plaintiff's Complaint because the answering defendants' actions were not malicious, egregious, in bad faith, or in willful or reckless indifference to any legal rights afforded to plaintiff.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

97. Some or all of the plaintiff's claims are barred by his failure to exhaust

administrative remedies.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

98. The plaintiff's Complaint fails to state a claim for which declaratory judgment, injunction relief or compensatory and/or punitive damages may be granted.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

99. Answering defendants reserve the right to plead, assert, and rely upon all proper affirmative defenses lawfully available, including those, which may be disclosed or discovered through further assertions by the plaintiff or through discovery.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

100. This Court lacks subject matter jurisdiction over this action.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

101. All actions taken by answering defendants, its representatives and employees, with respect to plaintiff have been for legitimate business considerations and have been taken in good faith, without any malice and without any intent to injure or harm him, and, therefore, are not violative of any statute, common law, or contract.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

102. To the extent plaintiff has failed to mitigate his damages, any damages that may be awarded to plaintiff should be reduced accordingly.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

103. Plaintiff has failed to allege facts sufficient to allow the award of punitive damages or attorneys' fees.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

104. Any denial of a job and/or benefit to the plaintiff by the answering defendants was for a job-related business necessity.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE,**  
**ANSWERING DEFENDANTS RESPECTFULLY ALLEGE:**

105. Plaintiff does not suffer from a “disability” as defined under the ADA or any State Statutes including New York State’s Human Rights Law.

**DEMAND FOR TRIAL BY JURY**

106. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, answering defendants demand a trial by jury in this action.

**WHEREFORE**, defendants, HORNBLOWER GROUP, INC., HORNBLOWER NEW YORK, LLC and HORNBLOWER CRUISES AND EVENTS, LLC, demand judgment dismissing the plaintiff’s Complaint, together with the costs and disbursements of this action.

Dated: Harrison, New York  
March 16, 2021

Respectfully Submitted,

GORDON, REES, SCULLY &  
MANSUKHANI, LLP

By: 

Ryan E. Dempsey  
Attorneys for Defendants  
HORNBLOWER GROUP, INC.,  
HORNBLOWER NEW YORK, LLC and  
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TO: Jonathan Shalom, Esq.  
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***Via Electronic Filing***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing pleading was served via ECF upon all counsel of record in the Court's electronic filing system.

Dated: Harrison, New York  
March 16, 2021

By: 

Ryan E. Dempsey  
Attorneys for Defendants  
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NEW YORK, LLC and HORNBLOWER  
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